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Sequence Number: \_\_\_\_\_  
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File Date: \_\_\_\_\_

# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Department of Labor and Workforce Development
<b>Division:</b>	Bureau of Workers' Compensation
<b>Contact Person:</b>	Troy Haley
<b>Address:</b>	220 French Landing Dr. 1-B
<b>Phone:</b>	615-532-0179
<b>Email:</b>	troy.haley@tn.gov

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Troy Haley
<b>Address:</b>	220 French Landing Dr. 1-B, Nashville, TN 37243
<b>Phone:</b>	615-532-0179
<b>Email:</b>	troy.haley@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Tennessee Room			
Address 2:	220 French Landing Drive, 1-A			
City:	Nashville, TN			
Zip:	37243			
Hearing Date :	08/29/17			
Hearing Time:	1:15 p.m.	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT	

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

☒ X Amendment  
☐ New  
☐ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0800-02-14	Claims Handling Standards
Rule Number	Rule Title
0800-02-14-.01	Scope of Rules
0800-02-14-.02	Definitions
0800-02-14-.03	General Requirements

0800-02-14-.04	Claims Reporting Requirements
0800-02-14-.05	Claims Handling and Investigating
0800-02-14-.06	Payment of Benefits
0800-02-14-.07	Medical Costs
0800-02-14-.08	Resolution Process
0800-02-14-.09	Claims Resolution Filing Requirements
0800-02-14-.10	Enforcement
0800-02-14-.11	Fraud

Chapter 0800-02-14 Claims Handling Standards is amended by deleting the prior rule and replacing it with the following:

#### 0800-2-14-.01 Scope of Rules

The provisions of this chapter shall apply to all employers, adjusting entities and providers of services related to workers' compensation claims in the State of Tennessee subject to provisions of the Workers' Compensation Act.

*Authority: T.C.A. §§50-6-233, 50-6-415, 50-6-419. Administrative History: Original rule filed on December 15, 1997; effective February 28, 1998.*

#### 0800-2-14.02 Definitions

- (1) "Act" means Tennessee Code Annotated, Title 50 Chapter 6.
- (2) "Adjusting entity" means a trade or professional association, managing general agency, pool, third party administrator and/or insurance company licensed to write workers' compensation insurance in Tennessee and shall also mean a self-insured employer or group self-insured employers possessing a valid certificate of authority from the commissioner of commerce and insurance pursuant to T.C.A §50-6-405.
- (3) "Adjuster" or "claims handler" means a representative of an adjusting entity who investigates workers' compensation claims, files or causes claims forms to be filed with the Bureau, commences benefits, and/or makes settlement recommendations based on the insured's liability on behalf of a self-insured employer, trade or professional association, third party administrator, and/or insurance company.
- (4) "Administrator" shall have the same definition of "Administrator" as in T.C.A §50-6-102.
- (5) "Bureau" means the Tennessee Bureau of Workers' Compensation as defined in Tenn. Code Ann. § 50-6-102, an autonomous unit attached to the Department of Labor and Workforce Development for administrative matters only, pursuant to Tenn. Code Ann. § 4-3-1409.
- (6) "Claim" means a demand for something as due; an assertion of a right or an alleged right.
- (7) "Claimant" means an individual who is claiming benefits under the Act.
- (8) "Claims Office" means a room, set of rooms, or building occupied by an adjuster where the commencement of workers compensation benefits occurs.
- (9) "Electronic Data Interchange" or "EDI" means the electronic communication method that provides standards for exchanging data via electronic means. The term "EDI" encompasses the entire electronic data interchange process, including the transmission, message flow, document format, and software used to interpret the documents using the standards established by the IAIABC and the Release Version accepted by the Bureau at the time of the filing.
- (10) "Electronic Form Equivalent" means the original document, provided on the Bureau's website, which is to be used when a sender reports required data via a paper document. When forms are reproduced, they shall be reproduced in their entirety, including instructions and shall not be modified without written consent of the Administrator. A form may be revised at any time at the discretion of the Administrator and will be available at no cost.

- (11)“Employee” shall have the same definition of “Employee as in T.C.A §50-6-102;
- (12)“Employer” shall have the same definition of “Employer” as in T.C.A §50-6-102.
- (13)“First Report of Work Injury” means the EDI equivalent of the form available on the Bureau’s website and designated by the Bureau as the appropriate document to initially report a claim of injury.
- (14)“Form” means the document as is available on the Bureau’s website on the date of the filing.
- (15)“IAIABC” means the International Association of Industrial Accident Boards and Commissions.
- (16)“Injury” and “personal injury” shall have the same definition of “injury” as in T.C.A §50-6-102.
- (17)“Insured” shall have the same definition of “Employer” as in T.C.A §50-6-102.
- (18)“Medical-only” claim or “med-only” claim means a claim requiring medical attention, but which has no indemnity benefits due or paid. Any claim in which no indemnity benefits are due or paid, but which has medical treatment provided by any medical personnel qualifies the claim for medical only status, regardless of whether or not a bill is generated and regardless of whom pays for the medical care.
- (19)“Trading partner” means an entity approved by the Bureau to exchange data electronically with the Bureau on behalf of an adjusting entity.

*Authority: T.C.A. §§ 50-6-102, 50-6-233 and 50-6-113. Administrative History: Original rule filed on December 15, 1997; effective February 28, 1998. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*

#### 0800-2-14-.03 General Requirements

- (1) Any employer or adjusting entity that knowingly, willfully and intentionally causes a claim to be paid under any health or sickness and accident insurance or that fails to provide reasonable and necessary medical treatment, including a failure to reimburse when the employer or adjusting entity knew that the claim arose out of a compensable work-related injury shall be assessed a civil penalty of \$500.00. The employer or adjusting entity shall not offset any benefit paid by that insurance against its temporary total disability benefit liability.
- (2) Pursuant to T.C.A §50-6-413, every adjusting entity shall maintain a claims office within the borders of Tennessee or shall be required to contract with an adjuster located within the borders of Tennessee. The claims office or adjuster must have the authority to commence temporary total disability benefits and medical benefits if so ordered by the Bureau. This requirement is not met by an adjusting entity having merely a Tennessee mailing address, post office box or similar receptacle to receive mail that is located within the borders.
- (3) Each adjusting entity shall designate at least one contact person to serve as a liaison between the entity and the Bureau. The designee must have the ability to provide information about claims assignments, status of payments and contact information for the adjusting entity’s adjusters as well as the entity’s primary EDI contact. The designee’s name, title, direct phone number, email address, and mailing address shall be provided to the Bureau, on a form prescribed by the Bureau, in January of each year and within fifteen (15) calendar days of any change regarding the designee for that entity. Each January and July, the designee shall provide the Bureau, on a form prescribed by the Bureau, with the name(s), direct phone number(s), email address(es), and mailing address(es) for each individual adjuster that is performing duties covered by these Rules. Each separate act of not timely notifying the Bureau of a change in the designee or not timely providing the information required in this subsection regarding adjusters shall constitute a separate violation and may subject the entity to assessment of a civil penalty, per Rule 0800-02-01-.10, for each separate act.
- (4) If an adjusting entity contracts with a trading partner to electronically file transactions with the Bureau on the entity’s behalf, or uses a trading partner’s software product for electronically sending transactions to the Bureau, a Trading Partner Agreement form, provided by the Bureau, must be fully completed and submitted to the Bureau. The adjusting entity shall remain responsible for the timely filing of transactions required by this rule, processing of acknowledgements, and any penalties and fines that may result from untimely electronic filings.

- (5) All adjusting entities or trading partners shall utilize anti-virus software to remove any viruses on all electronic transmissions prior to sending electronic transmissions to the Bureau. The adjusting entity or trading partner shall maintain the anti-virus software with the most recent anti-virus update files from the software provider. If the adjusting entity or trading partner sends a transmission that contains a virus which prevents the Bureau from processing the transmission, the transmission will not be considered as having been received.

*Authority: T.C.A. §§ 50-6-128, 50-6-233, 50-6-413, 50-6-415, 50-6-419, and 56-47-103 and 50-3-702.*

*Administrative History: Original rule filed on December 15, 1997; effective February 28, 1998. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*

#### 0800-2-14-.04 Claims Reporting Requirements

- (1) All forms required by these rules must be filed with the Bureau via EDI, unless an electronic form equivalent is specifically allowed or required by the Bureau. Requirements for EDI reporting are posted on the Bureau's website.
- (2) The adjuster, when required, shall include the following information on every form it submits to the Bureau:
- The employee's name.
  - The employee's date of birth.
  - The month, day, and year of the employee's injury or illness, in the following order: mm-dd-yy or mm-dd-yyyy.
  - The employee's social security number (SSN) as assigned by the Social Security Administration.
    - If the employee does not have a SSN, the adjusting entity shall assign an identification number that begins with the number "9" and is followed by the employee's date of birth, in the following format 9MMDDYYYY.
    - If the adjusting entity later learns the correct SSN, the adjusting entity shall immediately notify the Bureau via EDI by filing the appropriate FROI Change of SSN notice.
- (3) The adjusting entity shall ensure that all documents filed with the Bureau pursuant to this chapter, either by EDI or paper equivalent, are complete and legible.
- If a filing is not complete and error free, the filing shall be rejected. The adjusting entity shall make the correction, and resubmit the filing to the Bureau. The filing will be considered "accepted" and in compliance with this section only when a complete and error free filing is received and not rejected by the Bureau.
  - An adjusting entity will be subject to a penalty for any calendar month in which it fails to successfully transmit its documents with at least an 85% acceptance by the Bureau success rate for its filings. The assessment of this penalty will not preclude the assessment of additional penalties outlined in Rules 0800-02-13.
- (4) Every adjusting entity shall submit Tennessee's First Report of Work Injury form to the Bureau as soon as possible in all cases where the reported injury results in the need for medical treatment, restricted work, the inability to work, or death, but no later than the time frames listed below.
- Reports of all injuries causing seven (7) calendar days of disability or fewer shall be submitted on or before the fifteenth (15th) day of the month following the month in which the injury occurred.
  - Injuries that result in death or a personal injury of a nature that the injured person did not return to the person's employment within seven (7) calendar days after the occurrence of the injury must be reported no later than fourteen (14) calendar days after the report by an employer of the occurrence of the injury.
  - Minor injuries such as scratches, scrapes, paper cuts and/or other injuries treated solely by minor first aid are not required to be reported to the Bureau. More serious injuries such as sprains, strains or bruising must be reported.
- (5) Within two (2) business days of receiving a verbal or written notice of any injury from an employer, the adjusting entity shall send a Notice of a Reported Injury on a form prescribed by the Administrator to each claimant's last known address via first class US Mail. The adjusting entity shall also advise the employer of its requirement to provide the employee with a copy of the Beginner's Guide to Tennessee Workers' Compensation.
- (6) Decisions on compensability shall be made by the adjusting entity within fifteen (15) calendar days of the

verbal or written notice of injury. If after conducting a reasonable investigation as required by Rule 0800-02-21-.18 a claim is denied, the adjusting entity must notify the Bureau within one (1) business day of reaching that decision by filing the Notice of Denial of Claim for Compensation and must provide the claimant or their representative, the treating physician and the insured a non-EDI version of the Notice of Denial, available on the Bureau's website, simultaneously with the notification to the Bureau. The notice must include the basis for the denial.

- (7) Adjusting entities must file the First Report of Payment of Compensation with the Bureau within five (5) business days of the initial payment of benefits and shall submit the Notice of Change or Termination of Compensation Benefits within one (1) business day of a change or termination of the payment of compensation benefits. The adjusting entity must also provide the claimant or their representative and the insured a non-EDI version of the Notice of Change or Termination of Compensation Benefits simultaneously with the notification to the Bureau and must provide the explanation of the rationale upon which the changes were based.
- (8) An adjusting entity electing to controvert its liability and terminate the payment of compensation benefits after temporary disability and/or medical benefits have been paid in a claim, shall submit a Notice of Controversy to the Bureau within fifteen (15) calendar days of the due date of the first omitted payment.

*Authority: T.C.A. §§ 50-6-233, 50-6-415, and 50-6-419. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*

#### 0800-2-14-.05 Claims Handling and Investigation

- (1) The adjuster shall make verbal or written contact with the claimant within two (2) business days of receiving a verbal or written notice of any injury, including those considered to be "medical-only". This contact is not satisfied by the mailing of the Notice of a Reported Injury referenced herein. The purpose of this contact is to:
  - a. Provide each claimant with the adjuster's name and contact information, which shall include the adjuster's direct phone number, fax number, email address, and mailing address; and,
  - b. In claims that involve time lost from work, investigate the facts of the claim and obtain a history of prior claims, including work history, wages, and job duties.
- (2) Adjusters shall make personal or telephone contact with the employer within two (2) business days of the notice of the injury to verify details regarding the claim.
- (3) An adjuster assigned to a claim which had previously been assigned to a different adjuster shall make verbal or written contact with the claimant within two (2) business days of the assignment and shall provide the claimant with the newly assigned adjuster's name and contact information, which shall include that adjuster's direct phone number, fax number, email address, and mailing address. In instances involving a mass transfer of files, such as might occur if an adjusting entity purchased or merged with another adjusting entity, the time required to provide this notice will be extended to seven (7) business days.
- (4) In claims when compensability is questioned, adjusters shall contact all authorized medical providers, or their staff members, who have rendered medical services to a claimant within three (3) business days of an initial office visit to investigate details concerning the injury and treatment and make a preliminary compensability determination.
- (5) All employers, adjusting entities and providers of services related to workers compensation claims in the State of Tennessee subject to provisions of the Workers' Compensation Act shall provide the Bureau all information and documentation that is requested, and only that information that is requested, for the purposes of monitoring, examining, or investigating the entity's operations and processes within ten (10) calendar days unless the Bureau allows an extension of time.

*Authority: T.C.A. §§ 50-6-101, 50-6-233, 50-6-415, and 50-6-419. Administrative History: Original rule filed April 30, 1999; effective August 27, 1999. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*



#### 0800-2-14-.06 Payment of Benefits

- (1) Benefits are deemed paid when addressed to the last known address of the worker or beneficiary and deposited in the U.S. Mail or when funds are transferred to a financial institution for deposit in the worker's or beneficiary's account by approved electronic equivalent.
- (2) All workers' temporary total disability benefits shall be issued accurately and timely to assure the injured employee receives the benefits on or before the date they are due. To help ensure accuracy, Adjusters shall verify the average weekly wage of the claimant with the employer consistent with the Bureau's requirements and the requirements of the Act. A Wage Statement, available on the Bureau's website, shall be filed with the Bureau upon request pursuant to Rule 0800-02-21-.10(3).
  - a. To be considered timely, initial temporary total disability payments must be paid to the claimant no later than fifteen (15) calendar days after the date the disability begins and every subsequent payment is made within consecutive fifteen (15) calendar day increments, until all temporary total benefits have been paid. Each payment must indicate the time period covered by the payment.
- (3) All temporary partial disability benefits shall be issued timely, as per T.C.A §50-6-207(2).
- (4) Funeral expenses, including burial or cremation expenses, must be paid within a reasonable period of time.
- (5) All disability and death benefits shall be paid by check or direct deposit unless prior written permission for an alternative means of payment is given by the Administrator and the claimant or claimant's estate has signed a written agreement allowing an alternative means. Any instrument of payment must be negotiable and payable to the claimant or the claimant's estate for the full amount of the benefit due, without cost to the claimant. The claimant or claimant's estate must be able to make an initial withdrawal of the entire amount of the benefit due, less any appropriate attorney fees, without delay or cost to the worker.

*Authority: TCA §§ 50-6-201, 50-6-205, 50-6-225, 50-6-233, 50-6-409, and 50-6-419. Administrative History: Original rule filed on December 15, 1997; effective February 28, 1998. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*

#### 0800-2-14.07 Medical Costs

- (1) All medical costs owed under the Tennessee Workers' Compensation Law shall be paid pursuant to the Medical Fee Schedule contained in Rules 0800-2-17, 0800-2-18 and 0800-2-19.

*Authority: TCA §50-6-204, 50-6-233, 50-6-419. Administrative History: Original rule filed on December 15, 1997; effective February 28, 1998. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*

#### 0800-2-14-.08 Resolution Process

- (1) The permanent impairment rating and date of maximum medical improvement determined by the treating physician, and other information needed to settle a claim shall be documented in writing on a form prescribed by the Administrator and provided, at no cost, to the claimant within fifteen (15) calendar days of its receipt by the adjuster.
- (2) Adjusters shall make an offer of settlement in writing within thirty (30) calendar days of receipt of information specified above. If settlement is not agreed upon, a Benefit Review Conference or an Alternative Dispute Resolution, whichever is appropriate, may be requested by either party in accordance with the Bureau's rules.
- (3) All settlements shall be reduced to writing and shall be finalized by order or approval of an appropriate court, as required by the Act. A copy of the court order or Bureau approval and appropriate Statistical Data Form shall be filed timely with the Bureau.

*Authority: TCA §§ 50-6-206, 50-6-233, 50-6-237, 50-6-240, 50-6-244, and 50-6-419. Administrative History:*

#### 0800-2-14-.09 Claims Resolution Filing Requirements

- (1) The appropriate resolution form must be submitted to the Bureau in all claims when they are resolved.
  - a. In matters concluded by settlement or resolved by trial, the employer or the employer's agent must file a fully-completed appropriate version of the Statistical Data Form contemporaneously with the filing of the final order or settlement.
    - i. To be considered fully complete, the form must contain all required data, as determined by the Bureau, and reflect information that is current as of the date the information is submitted to the court for approval, whether or not an appeal of the matter is anticipated or filed.
    - ii. The claimant and any agent of the claimant must cooperate with the adjusting entities in completing the statistical data form.
  - b. In matters not concluded by settlement or resolved by trial, adjusting entities must submit a fully-completed Final Report of Payment and Receipt of Compensation via EDI within thirty (30) days following the final payment of compensation. The form must report all compensation benefits paid on a claim, including all medical expenses (including in-patient, out-patient, pharmacy, case management, therapy, etc.), death benefits and funeral expenses, and legal costs.
- (2) A fully-completed Statistical Data Form is also required for every workers' compensation matter even if the only issue resolved is the closing of future medical benefits that had remained open pursuant to a prior order. This requirement applies even if a statistical data form was filed at the time of submission of the prior order.
- (3) Pursuant to T.C.A. §50-6-244, an order of the court is not final until the Statistical Data Form has been completed and filed with the appropriate clerk of the court or Bureau office.
- (4) If the Administrator or the Administrator's designee determines that an employer or the employer's agent fails to fully complete or timely file the statistical data form, the bureau may assess a civil penalty against the offending party not to exceed one hundred dollars (\$100) per violation. A party assessed a penalty by the Administrator pursuant to this subsection may appeal the penalty by requesting a contested case hearing pursuant to Rule 0800-02-.13.

*Authority: TCA §50-6-206, 50-6-233, 50-6-244, and 50-6-419. Administrative History: Original rule filed on December 15, 1997; effective February 28, 1998. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*

#### 0800-2-14-.10 Enforcement

- (1) The Bureau has the authority to monitor and audit the performance of adjusters and adjusting entities to ensure compliance with the Act and Bureau Rules as often as it deems necessary which includes, but is not limited to, the review of the following:
  - a. Ongoing review of data provided to the Bureau by adjusting entities;
  - b. Timeliness, completeness and accuracy of all filings with the Bureau in any format;
  - c. Timeliness and accuracy of indemnity and/or payments to medical providers;
  - d. Denied claims;
  - e. Timeliness and accuracy of the provision of a panel of physicians;
  - f. The alleged or suspected harassment, coercion or intimidation of any party;
  - g. Timeliness of the response to a Request for Assistance, Petition for Benefits Determination or any equivalent form;
  - h. Timeliness of the compliance with an Order from a Judge of the Court of Workers' Compensation Claims or Workers' Compensation Appeals Board, a Workers' Compensation Specialist, Administrative Law Judge, or an Administrator's Designee;
  - i. Claims-handling practices;
  - j. Timeliness of authorizing medical treatment and medications;

- k. Mailing of the Notice of a Reported Injury;
  - l. Mailing of the Notice of Employer Rights and Responsibilities in a Workers' Compensation Claim required by Rule 0800-02-01 to the employer.
- (2) Reports resulting from the Bureau's monitoring, examination or investigation conducted under this Chapter are considered public records and may be shared in any means deemed appropriate by the Bureau and may include publicizing those adjusting entities that exceed or fail to meet the Bureau's established thresholds for claims handling excellence.
- (3) In addition to other penalties provided by applicable law and regulation, violations of any of the above rules shall be subject to enforcement by the Administrator pursuant to TCA §50-6-419(c).

*Authority: TCA §50-6-233, 50-6-415 and 50-6-419. Administrative History: Original rule filed on December 15, 1997; effective February 28, 1998. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*

#### 0800-2-14-.11 Fraud

All provisions regarding the detecting, prosecuting, and/or preventing of workers' compensation fraud shall be governed by TCA §50-6-127 and Title 56, Chapter 47.

*Authority: TCA §50-6-127, 50-6-419 and 56-47-103. Administrative History: Original rule filed on December 15, 1997; effective February 28, 1998. Repeal and new rule filed \_\_\_\_\_; effective \_\_\_\_\_.*



I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Officer: \_\_\_\_\_

Title of Officer: \_\_\_\_\_

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

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Filed with the Department of State on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State